

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2006-1924-MWD-E **TCEQ ID:** RN101525061 **CASE NO.:** 31626
RESPONDENT NAME: Aqua Utilities, Inc. dba Aqua Texas, Inc.

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Pine Trails, on Sulphur Gully, approximately one-half mile north of Wallisville Road and one mile east of C.E. King Parkway, Harris County</p> <p>TYPE OF OPERATION: Wastewater treatment</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on May 28, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Catherine Albrecht, Enforcement Division, Enforcement Team 1, MC 169, (713) 767-3672; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896 TCEQ Central Office Investigator: Ms. Rosie Garza, Enforcement Division, Compliance Monitoring Team, MC 224, (512) 239-4574 Respondent: Mr. Robert L. Laughman, Chief Operating Officer, Aqua Utilities, Inc., 1421 Wells Branch Parkway, Pflugerville, Texas 78660 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 26, 2006</p> <p>Date of NOE Relating to this Case: October 25, 2006 (NOE)</p> <p>Background Facts: This was a routine record review. One violation was documented.</p> <p>WATER</p> <p>Failed to comply with permit effluent limits [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. 11701001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$7,880</p> <p>Total Deferred: \$1,576 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$6,304</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>1) The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. By December 1, 2005, made staffing changes to use a more experienced operator at this Facility to improve plant operations and maintenance including, but not limited to, solids management, operations and maintenance of the traveling bridge clarifiers, and monitoring of the chlorine feed and residual levels;</p> <p>b. On January 12, 2006, completed the repair of the No. 3 blower and the backup lift station pump; and</p> <p>c. On January 12, 2006, conducted an engineering study to evaluate the extent of infiltration and inflow ("I/I") of storm water into the collection system and the impacts of I/I on hydraulic loading and plant performance at the Facility.</p> <p>Ordering Provisions:</p> <p>2) The Order will require the Respondent to:</p> <p>a. Within 90 days after the effective date of this Agreed Order, conduct additional engineering studies to identify the significant sources of I/I into the collection system and develop and implement a plan and schedule to reduce hydraulic loading of storm water to the wastewater treatment plant to a manageable level and ensure compliance with permit limits and TPDES Permit No. 11701001, Operational Requirement No. 8.a. The plan shall be prepared by a Texas registered professional engineer and all phases of the schedule necessary to achieve compliance with permit limits shall be completed within 270 days of the effective date of this Agreed Order. The Respondent shall provide a copy of the plan and schedule to Order Compliance Team of the TCEQ Enforcement Division and to the TCEQ Houston Regional Office; and 4</p> <p>b. Within 365 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations and Ordering Provision a., including detailed supporting documentation including receipts, and/or other records.</p>



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision May 19, 2005

DATES	Assigned	30-Oct-2006	Screening	03-Nov-2006	EPA Due	
	PCW	08-Jan-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Aqua Utilities, Inc. dba Aqua Texas, Inc.		
Reg. Ent. Ref. No.	RN101525061		
Facility/Site Region	12-Houston	Major/Minor Source	Minor Source

CASE INFORMATION

Enf./Case ID No.	31626	No. of Violations	1
Docket No.	2006-1924-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Catherine Albrecht
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$4,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 55% Enhancement Subtotals 2, 3, & 7 \$2,200

Notes The respondent has two NOV's for same or similar violations and nine self-reported effluent violations at this facility during the last five years.

Culpability No 0% EnhancementSubtotal 4 \$0

Notes The respondent does not meet culpability criteria.

Good Faith Effort to Comply 0% Reduction

Subtotal 5 \$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with a small x)

Notes The respondent does not meet good faith criteria.

Economic Benefit

50% Enhancement*

Subtotal 6 \$2,000

Total EB Amounts	\$21,019
Approx. Cost of Compliance	\$100,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$8,200

OTHER FACTORS AS JUSTICE MAY REQUIRE

 4% ReductionAdjustment -\$320

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes Recommend reduction in the penalty so that monthly self-reported violations don't overly impact the penalty amount and to prevent double-enhancement of the penalty amount for same violations in an NOV that were self-reported.

Final Penalty Amount \$7,880

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$7,880

DEFERRAL

 20% ReductionAdjustment -\$1,576

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY

 \$6,304

Screening Date 03-Nov-2006

Docket No. 2006-1924-MWD-E

PCW

Respondent Aqua Utilities, Inc. dba Aqua Texas, Inc.

Policy Revision 2 (September 2002)

Case ID No. 31626

PCW Revision May 19, 2005

Reg. Ent. Reference No. RN101525061

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	11	55%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were</i>	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 55%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The respondent has two NOVs for same or similar violations and nine self-reported effluent violations at this facility during the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 55%

Screening Date 03-Nov-2006	Docket No. 2006-1924-MWD-E	PCW
Respondent Aqua Utilities, Inc. dba Aqua Texas, Inc.	<i>Policy Revision 2 (September 2002)</i>	
Case ID No. 31626	<i>PCW Revision May 19, 2005</i>	
Reg. Ent. Reference No. RN101525061		
Media [Statute] Water Quality		
Enf. Coordinator Catherine Albrecht		
Violation Number 1		
Primary Rule Cite(s)	30 Tex. Admin. Code § 305.125(1), TPDES Permit No. 11701001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and Tex. Water Code § 26.121(a)	
Secondary Rule Cite(s)		
Violation Description	Failure to comply with permit effluent limits. See attached table.	
Base Penalty		\$10,000

>> **Environmental, Property and Human Health Matrix**

		Harm			
	Release	Major	Moderate	Minor	
OR	Actual			X	Percent 10%
	Potential				

>> **Programmatic Matrix**

	Falsification	Major	Moderate	Minor	Percent
Matrix Notes	A simplified model was use to evaluate the effects of contaminants on human health and the environment. Failure to comply with permit limits resulted in the exposure of an insignificant amount of contaminants which did not exceed levels protective of human health and the environment.				

Adjustment **-\$9,000****Base Penalty Subtotal** \$1,000**Violation Events**Number of Violation Events **4**

mark only one use a small x	daily	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$4,000

Four quarterly events are recommended.

Economic Benefit (EB) for this violation**Estimated EB Amount** \$21,019**Statutory Limit Test****Violation Final Penalty Total** \$7,880**This violation Final Assessed Penalty (adjusted for limits)** \$7,880

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc. dba Aqua Texas, Inc.

Case ID No. 31626

Reg. Ent. Reference No. RN101525061

Media [Statute] Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Delayed Costs							
Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction	\$100,000	01-Jun-2005	01-Jun-2008	3.0	\$1,001	\$20,018	\$21,019
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of additional studies of the collection system and implementing rehabilitation work to reduce infiltration and inflow of stormwater and ensure permit compliance is \$100,000. Date required is the first violation month. Final date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering Item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$100,000

TOTAL \$21,019

Respondent: Aqua Utilities, Inc. dba Aqua Texas, Inc.
 ID Number: RN101525061
 Docket Number: 2006-1924-MWD-E
 Enf. Coordinator: Catherine Albrecht

Corresponds to Violation Number: 1

OUTFALL 001 EFFLUENT PARAMETERS

Interim Permit Limits

Month/ Year	TSS Dly Avg Conc Limit of 15.0 (in mg/L)	TSS Single Grab Limit of 40.0 (in mg/L)	TSS Dly Avg Load Limit of 100.0 (in lbs/day)	CBOD Dly Avg Conc Limit of 10.0 (in mg/L)	CBOD Dly Avg Loading Limit of 67.0 (in lbs/day)	Flow Dly Avg Limit of 0.80 (in MGD)	TCR Max Limit of 4.0 (in mg/L)
Jun-05	24.9	250.0	115.6	c	c	c	c
Jul-05	16.3	49.3	121.8	c	c	0.863	c
Aug-05	33.7	102.0	197.67	15.2	105.77	0.8312	c
Sep-05	17.9	c	138.99	c	69.58	c	c
Jan-06	15.6	c	c	c	c	c	4.4
Mar-06	c	c	c		c	c	4.3

Abbreviations:

Total Suspended Solids ("TSS")
 Carbonaceous Biochemical Oxygen Demand (five-day) ("CBOD")
 Total Chlorine Residual, Maximum ("TCR Max")
 Daily Average ("Dly Avg")
 Concentration ("Conc")
 milligrams per liter ("mg/L")
 pounds per day ("lbs/day")
 million gallons per day ("MGD")
 compliant ("c")

Compliance History

Customer/Respondent/Owner-Operator:	CN602787509	Aqua Utilities, Inc. dba Aqua Texas, Inc.	Classification: AVERAGE Rating: 0.96
Regulated Entity:	RN101525061	PINE TRAILS	Classification: AVERAGE Site Rating: 0.65
ID Number(s):	WASTEWATER WASTEWATER WASTEWATER LICENSING	PERMIT PERMIT LICENSE	WQ0011701001 TPDES0068683 WQ0011701001

Location: LOCATED ON SULPHUR GULLY, APPROX 1/2 MI N OF
WALLISVILLE RD & 1 MI E OF CE KING PKWY IN HARRIS CO.

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: November 02, 2006

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: November 02, 2001 to November 02, 2006

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Catherine Albrecht Phone: (713)767-3672

Site Compliance History Components

- | | |
|--|-------------------------|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | Aqua Utilities, Inc. |
| 4. If Yes, who was/were the prior owner(s)? | AquaSource Utilites Inc |
| 5. When did the change(s) in ownership occur? | 08/19/2004 |

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
- 1 04/24/2006 (502393)
 - 2 05/23/2006 (502394)
 - 3 06/16/2006 (502395)
 - 4 07/12/2006 (502396)
 - 5 02/19/2002 (195077)
 - 6 02/24/2003 (195078)
 - 7 03/21/2002 (195080)
 - 8 04/22/2002 (195083)
 - 9 04/24/2003 (195084)
 - 10 04/19/2005 (423402)
 - 11 02/22/2006 (474639)
 - 12 05/22/2002 (195087)
 - 13 05/23/2005 (423403)
 - 14 06/23/2005 (423404)
 - 15 04/30/2004 (358463)
 - 16 05/28/2004 (358464)
 - 17 06/24/2002 (195090)
 - 18 09/07/2004 (358465)
 - 19 09/23/2004 (358466)
 - 20 03/18/2004 (311053)
 - 21 10/20/2004 (358467)
 - 22 03/20/2006 (474640)
 - 23 11/22/2004 (358468)
 - 24 03/25/2003 (311055)
 - 25 07/25/2002 (195093)
 - 26 10/24/2005 (474641)
 - 27 10/25/2006 (514202)
 - 28 05/23/2003 (311058)
 - 29 08/22/2002 (195096)
 - 30 06/23/2003 (311060)
 - 31 09/25/2002 (195099)
 - 32 07/18/2003 (311062)
 - 33 11/29/2005 (474642)

34 09/05/2003 (311064)
35 10/21/2002 (195102)
36 12/20/2005 (474643)
37 10/03/2003 (311066)
38 11/19/2001 (195105)
39 01/23/2006 (474644)
40 10/20/2003 (311068)
41 11/21/2002 (195106)
42 03/22/2005 (385344)
43 12/22/2003 (311069)
44 01/20/2004 (311070)
45 12/20/2004 (385345)
46 02/20/2004 (311072)
47 12/14/2001 (195109)
48 01/20/2005 (385346)
49 04/30/2003 (33990)
50 12/30/2002 (195110)
51 07/22/2005 (444211)
52 08/23/2005 (444212)
53 09/23/2005 (444213)
54 01/24/2002 (195113)
55 01/21/2003 (195114)
56 12/16/2005 (437293)
57 02/09/2006 (453677)
58 06/04/2003 (62199)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 03/31/2006 (502393)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2006 (474639)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 06/30/2005 (444211)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2005 (444212)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2005 (474641)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2005 (444213)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2002 (195106)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 02/28/2005 (385344)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 12/13/2005 (437293)
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT IA
Description: Failure to maintain compliance with the permitted effluent limits for total suspended solids (TSS), carbonaceous biochemical oxygen demand (CBOD), and daily average flow.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT IA
Description: Failure to properly operate and maintain the wastewater treatment plant.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.6
30 TAC Chapter 319, SubChapter A 319.9(c)
Description: Failure to conduct total chlorine residual quality control tests.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Rqmt Prov: PERMIT IA
Description: Failure to ensure flow measurement accuracy.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.4(a)(8)
30 TAC Chapter 317 317.7(i)
Description: Failure to test the backflow preventer annually.

Date: 11/30/2004 (385345)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2003 (33990)
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)(1)
Rqmt Prov: OP IA
Description: Failure to prevent the unauthorized discharge of wastewater from the collection system.

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AQUA UTILITIES, INC. DBA
AQUA TEXAS, INC.
RN101525061

§ BEFORE THE
§
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2006-1924-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aqua Utilities, Inc. dba Aqua Texas, Inc. ("AUI") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and AUI appear before the Commission and together stipulate that:

1. AUI owns and operates a wastewater treatment facility located on Sulphur Gully, approximately one-half mile north of Wallisville Road and one mile east of C.E. King Parkway in Harris County, Texas (the "Facility").
2. AUI has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and AUI agree that the Commission has jurisdiction to enter this Agreed Order, and that AUI is subject to the Commission's jurisdiction.
4. AUI received notice of the violations alleged in Section II ("Allegations") on or about October 30, 2006.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by AUI of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Eight Hundred Eighty Dollars (\$7,880) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). AUI has paid Six Thousand Three Hundred Four Dollars (\$6,304) of the administrative penalty and One Thousand Five Hundred Seventy-Six Dollars (\$1,576) is deferred contingent upon AUI's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If AUI fails to timely and

satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require AUI to pay all or part of the deferred penalty.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and AUI have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that AUI has implemented the following corrective measures at the Facility:
 - a. By December 1, 2005, made staffing changes to use a more experienced operator at this Facility to improve plant operations and maintenance including, but not limited to, solids management, operations and maintenance of the traveling bridge clarifiers, and monitoring of the chlorine feed and residual levels;
 - b. On January 12, 2006, completed the repair of the No. 3 blower and the backup lift station pump; and
 - c. On January 12, 2006, conducted an engineering study to evaluate the extent of infiltration and inflow ("I/I") of storm water into the collection system and the impacts of I/I on hydraulic loading and plant performance at the Facility.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that AUI has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, AUI is alleged to have failed to comply with permit effluent limits, as listed below, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System Permit No. 11701001, Interim Effluent Limitations and Monitoring Requirements Nos. 1 and 2, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on September 26, 2006.

Month/ Year	TSS Dly Avg Conc Limit of 15.0 (in mg/L)	TSS Single Grab Limit of 40.0 (in mg/L)	TSS Dly Avg Load Limit of 100.0 (in lbs/day)	CBOD Dly Avg Conc Limit of 10.0 (in mg/L)	CBOD Dly Avg Loading Limit of 67.0 (in lbs/day)	Flow Dly Avg Limit of 0.80 (in MGD)	TCR Max Limit of 4.0 (in mg/L)
Jun-05	24.9	250.0	115.6	c	c	c	c
Jul-05	16.3	49.3	121.8	c	c	0.863	c
Aug-05	33.7	102.0	197.67	15.2	105.77	0.8312	c
Sep-05	17.9	c	138.99	c	69.58	c	c
Jan-06	15.6	c	c	c	c	c	4.4
Mar-06	c	c	c		c	c	4.3

Abbreviations: Total Suspended Solids ("TSS"); Carbonaceous Biochemical Oxygen Demand (five-day) ("CBOD"); Total Chlorine Residual, Maximum ("TCR Max"); Daily Average ("Dly Avg"); Concentration ("Conc"); milligrams per liter ("mg/L"); pounds per day ("lbs/day"); million gallons per day ("MGD"); and compliant ("c")

III. DENIALS

AUI generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that AUI pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and AUI's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Utilities, Inc. dba Aqua Texas, Inc., Docket No. 2006-1924-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that AUI shall undertake the following technical requirements:

- a. Within 90 days after the effective date of this Agreed Order, conduct additional engineering studies to identify the significant sources of I/I into the collection system and develop and implement a plan and schedule to reduce hydraulic loading of storm water to the wastewater treatment plant to a manageable level and ensure compliance with permit limits and TPDES Permit No. 11701001, Operational Requirement No. 8.a. The plan shall be prepared by a Texas registered professional engineer and all phases of the schedule necessary to achieve compliance with permit limits shall be completed within 270 days of the effective date of this Agreed Order. AUI shall provide a copy of the plan and schedule to Order Compliance Team of the TCEQ Enforcement Division and to the TCEQ Houston Regional Office with the written certification for Ordering Provision 2.b. below; and
- b. Within 365 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations. The certification shall, include detailed supporting documentation including receipts, and/or other records to demonstrate compliance, be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Manager, Water Section
Houston Regional Office
Texas Commission on Environmental Quality
5425 Polk Avenue, Suite H
Houston, Texas 77023-1486

3. The provisions of this Agreed Order shall apply to and be binding upon AUI. AUI is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.

4. If AUI fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, AUI's failure to comply is not a violation of this Agreed Order. AUI shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. AUI shall notify the Executive Director within seven days after AUI becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by AUI shall be made in writing to the Executive Director. Extensions are not effective until AUI receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against AUI in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to AUI, or three days after the date on which the Commission mails notice of the Order to AUI, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

1. The first part of the paper is devoted to the study of the properties of the function $f(x)$ defined by the equation

$$f(x) = \int_0^x \frac{1}{1+t^2} dt, \quad x \in \mathbb{R}.$$

It is shown that the function $f(x)$ is increasing and concave down on the interval $(-\infty, \infty)$. Moreover, it is proved that the function $f(x)$ has a horizontal asymptote at $y = \frac{\pi}{2}$ as $x \rightarrow \pm\infty$.

2. In the second part of the paper, we consider the function $g(x)$ defined by the equation

$$g(x) = \int_0^x \frac{1}{1+t^4} dt, \quad x \in \mathbb{R}.$$

It is shown that the function $g(x)$ is increasing and concave down on the interval $(-\infty, \infty)$. Moreover, it is proved that the function $g(x)$ has a horizontal asymptote at $y = \frac{\pi}{4}$ as $x \rightarrow \pm\infty$.

Aqua Utilities, Inc. dba Aqua Texas, Inc.
DOCKET NO. 2006-1924-MWD-E
Page 6

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

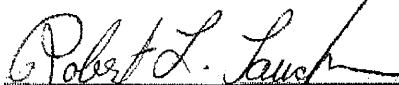
8/2/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

January 19, 2007
Date

AB Robert L. Loughman
Name (Printed or typed)
Authorized Representative of
Aqua Utilities, Inc. dba Aqua Texas, Inc.

Chief Operating Officer
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

